



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 24, 2020

Mr. Adam Bitter  
General Counsel  
Office of the Secretary of State  
P.O. Box 12697  
Austin, Texas 78711 2697

OR2020-15011A

Dear Mr. Bitter:

This office issued a letter to the Office of the Secretary of State (the “secretary’s office”) for ID# 831317 on June 1, 2020. Since that time, we have received new information that affects the facts on which this letter was based. Consequently, this decision serves as the correct ruling and is a substitute for the letter issued on June 1, 2020. *See generally* Gov’t Code § 552.011 (providing that Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the “Act”)). Your request was assigned ID# 837313 (SOS PIR# 20-0308).

The secretary’s office received a request for a copy of the official election complaint about a named individual. You state the secretary’s office will withhold e-mail addresses pursuant to Open Records Decision 684 (2009).<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.<sup>2</sup> Additionally, the secretary’s office provides documentation showing it has notified the Office of the Attorney General (the “OAG”) of the right to submit comments to this office stating why the submitted information should not be released. *See id.* § 552.304 (interested

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<sup>1</sup> Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup> We note, and you acknowledge, the secretary’s office did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov’t Code § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352

party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses section 31.006 of the Election Code. Section 31.006 of the Election Code provides the following:

(a) If, after receiving a complaint alleging criminal conduct in connection with an election, the [secretary’s office] determines that there is reasonable cause to suspect that the alleged criminal conduct occurred, the secretary shall promptly refer the complaint to the [OAG]. The secretary shall deliver to the [OAG] all pertinent documents in the secretary’s possession.

(b) The documents submitted under Subsection (a) are not considered public information until:

(1) the [secretary’s office] makes a determination that the complaint received does not warrant an investigation; or

(2) if referred to the [OAG], the [OAG] has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

Elec. Code § 31.006. You state the submitted information consists of an election complaint and related documentation that the secretary’s office was still evaluating at the time of the request and had not made any determinations as to whether the complaints did or did not warrant an investigation. Based on your representations and our review, we agree the information at issue is not considered public information under section 31.006(b). Accordingly, the secretary’s office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 31.006(b) of the Election Code.<sup>3</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Kelly McWethy  
Assistant Attorney General  
Open Records Division

KM/be

Ref: ID# 831317

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)